Report of the Contaminated Sites Implementation Committee

by Jim Titerle and Patricia Houlihan

July 19, 2000

Contaminated Site Implementation Committee

LIST OF ISSUES

Tab	Issues
A	Status of Issues
1.	Review Process Timelines
2.	Fees
3.	Independent Remediation
4.	Soil Relocation Agreements
5.	Mine Sites
6.	Risk-based Standards at Wide Area Sites
7.	Brownfield Sites
8.	Certificates of Compliance
9.	Financial Security
10.	UBCM Issues
11.	Allocation Panel
12.	MELP Issues
13.	Air Stripping
14.	"Freeze and Thaw" Provisions
15.	Updating Standards

July 31, 2000

Contaminated Sites Implementation Committee

STATUS OF ISSUES

	ISSUE	STATUS AS OF JULY 2000
1.	Review Process Timelines	– The Ministry has proposed a number of measures designed to reduce processing times. The proposals are set out in the document entitled "Summary of Proposals to Address Timelines Subcommittee Issues". The Ministry has agreed to update the CSIC on progress regularly. – The Ministry is currently working on a tracking system so that stakeholders can determine the stage their site is at in the review process. – Changes to Protocol 6 and the CSR have been drafted to authorize managers to rely on professional experts in making determinations regarding whether a site is contaminated. (enclosed) However the CSIC has not yet reached consensus on whether to expand the use of the roster.
2.	Fees	– Changes to the Fee Schedule have been drafted. (enclosed) – A policy has been drafted to limit when a resubmission surcharge can be imposed. (enclosed)
3.	Independent Remediation	– Proposed changes to the CSR have been drafted regarding notice to the manager and neighbouring property owners of contamination and an exemption to the need to provide a site profile in order to obtain a demolition permit. (enclosed) – The subcommittee will continue to work on rewriting Guidance Document #4.
4.	Soil Relocation Agreements	– Changes to Protocol 6 and the CSR have been drafted to authorize managers to rely on professional experts in entering into SRAs. (enclosed) However the CSIC has not reached consensus on whether to expand the use of the roster. – The issue of the appropriate notice to local governments regarding soil relocation is still under discussion between the UBCM and UDI representatives. – The fee to review SRAs processed through the professional experts process needs to be provided by the Ministry.
5.	Mine Sites	– Outstanding issues are being considered by consultants. A report on the issues will be submitted by July 31, 2000.

	ISSUE	STATUS AS OF JULY 2000
6.	Risk-based Standards at Wide Area Sites	– Changes to the CSR have been drafted. (enclosed)
7.	Brownfield Sites	– Nothing to go forward at this time. – The subcommittee continues to research this issue, particularly regarding experiences in other jurisdictions.
8.	Certificates of Compliance	– Policy document regarding reopening of certificates has been prepared. (enclosed)
9.	Financial Security	– Nothing to go forward at this time. – The subcommittee continues to research this issue and is preparing an outline of policies and procedures for the next CSIC meeting.
10.	UBCM Issues	– Proposed fee increase is enclosed. – UBCM and the Ministry to work on administrative issues and developing educational material. – Site profile exemption for municipalities regarding blanket rezonings has been drafted (enclosed). However this issue has been deferred and will be considered by the independent remediation subcommittee.
11.	Allocation Panels	– Nothing to go forward at this time. – Resolution of this issue will require changes to the Act.
12.	MELP Issues	– Draft wording for miscellaneous changes proposed by the Ministry have been prepared. (enclosed)
13.	Airstripping	– The CSIC did not reach a consensus on this issue. Nothing to go forward at this time.
14.	Freeze and Thaw Provisions	– Draft revision of these provisions has been prepared. (enclosed) – The changes require amendments to the *Municipal Act* (and other legislation). – The UBCM Subcommittee will be asked to consider AIP issue identified in the submission.
15.	Updating Standards	– John Ward and Glyn Fox to provide standards to be updated in this round of regulatory amendments.

July 31, 2000

Contaminated Sites Implementation Committee

REVIEW PROCESS TIMELINES (Issue #1)

Determinations of Contaminated Sites

Statement of Issue:

The process to obtain a determination of whether a site is contaminated is too slow.

Proposal:

[Proposal still under discussion as to whether the use of the professional experts process should be expanded.]

In order to reduce the time involved in determining whether a site is contaminated, CSIC recommends that professional experts be able to recommend to the manager:

(a) that a preliminary determination be made under WMA , s. 26.4(2)(a) that a site is, or is not, a contaminated site. This change will not eliminate the need for the manager to make a final determination, after receipt of public comments, that the site is, or is not, a contaminated site pursuant to WMA, s. 26.4(2)(d). The professional expert's recommendation will not apply to such final determination;

(b) that a final determination be made under WMA, s. 26.4(3) that a site is a contaminated site.

Proposed Wording Changes:

1. Amend CSR, s. 15 by adding the following:[1]

(3) A person making an application for a preliminary determination under section 26.4(2)(a) of the Act or a final

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[1] There are currently provisions in the CSR dealing with the "professional expert's process" in respect of applications for approvals in principle (CSR, s. 47(1.1) to (1.5)) and certificates of compliance (CSR, s. 49(3) to (7)). The current CSIC proposals include provisions in the CSR regarding the use of the "professional expert's process" regarding determinations of contaminated sites (CSR, s. 15 (3) to (5)) and soil relocation agreements (CSR, s. 43(2) and (3)). The provisions dealing with determinations and soil relocation agreements have been drafted following a different approach than the existing provisions dealing with approvals in principle and certificates of compliance. In drafting the final package of amendments, a decision will have to be made whether to amend CSR, s. 47 and s. 49 to follow the approach of the proposed CSR, s. 15 and 43 or vice versa.

determination under section 26.4(3) of the Act may include in the application a recommendation of a professional expert listed on the roster established under section 49.1(1) that the application be approved in which case section 49.1(2) shall apply.

(4) If a manager rejects an application described in subsection (3), the manager must provide written reasons for the rejection within 15 days of the rejection to:

(a) the applicant,

(b) the director, and

(c) the Association of Professional Engineers and Geoscientists of the Province of British Columbia.

(5) Before making a determination under section 26.4 of the Act, a manager may request any additional information and reports the manager considers necessary to assess whether the site is contaminated.

2. Amend CSR, s. 49.1(2) as follows:[2]

(2) On processing an application described by section *15(3), 43(1),* 47(1) or (4) or 49(1), a manager may consider, in determining the manner and extent of the review that must be undertaken of the work on which the application is based, *whether the application includes a recommendation of a professional expert listed on the roster established under subsection (1) that the decision requested in the application be made.*

3. Add the following to Schedule 3, Table 2, section 1:

I		II	III	IV	V	VI	VII
(b)	*Person requests a manager to make a final determination under section 15(3).*	$50	$50	$75	$50	$50	$75

[Note that this reduced fee is payable upon a person making the application. If the manager decides to review the application in detail, notwithstanding the professional expert's

[2] The amendment to this section is based on the approach taken in proposed CSR, s. 15 and 43, not the approach in existing CSR, s. 47 and 49.

recommendation, there is no provision for an increased fee. This line item relates only to an application under WMA, s. 26.4(3) using the professional expert process. If the professional expert process is used in respect of a preliminary determination under WMA, s. 26.4(2)(a), the full fee is payable because the manager must still go through the final determination process under WMA, s. 26.4(2)(d).]

July 31, 2000

Contaminated Sites Implementation Committee

FEES (Issue #2)

Statement of Issue:

The current fee system under the Regulation does not accurately reflect the costs associated with implementation of the process. The manner in which fees are determined is not equitable in some cases.

Background to the Issue:

Now that the CSR has been in effect for several years, problems with the fee structure have become apparent and need to be addressed.

Proposal:

1. Currently the Ministry is entitled to collect fees for inspecting, monitoring and verifying for an approval in principle or a certificate of compliance or a conditional certificate of compliance. However, the Ministry inspects, monitors and verifies in circumstances which are not in relation to approvals and certificates but there is no basis for fee recovery in such cases. CSIC proposes that Schedule 3 to the CSR (Fees) be amended to provide fees for a broader range of inspection, monitoring and verification activities.

    - **Proposal:**

      Amend Schedule 3, Table 2, item 4(a) to read as follows:

      (a) Manager inspects, monitors and verifies remediation

2. Pursuant to CSR, s. 10.5, if a deficient report is resubmitted to the Ministry a 20% surcharge on the applicable fee will be levied. The current surcharge does not reflect actual review costs. In addition, increasing the surcharge may promote greater attention to the quality of the initial submission.

    However, the increased resubmission surcharge must only be imposed in circumstances where the resubmission results in a material amount of additional work by the Ministry. In order to give some comfort that the surcharge will only be imposed in such situation, CSIC proposes that the Ministry adopt the draft policy attached to this proposal.

    - **Proposal:**

      Amend CSR, s. 10(5) to read as follows:

      10(5) When a report is resubmitted in accordance with subsection (4), a surcharge of 50% of the applicable fee in Schedule 3 will be levied.

3. Schedule 3, Table 2 has the following deficiencies:

(a) it does not include a provision for review of a remediation plan based on site-specific standards. The level of effort required for such review is greater than that to review a remediation plan based on generic or matrix numeric based standards, and less than one based on risk based standards.

(b) it does not contain a specific fee for the review of a report on background levels of a substance; and

(c) it does not provide a fee for review of a risk assessment which is not part of a remediation plan.

- **Proposal:**

  Amend Schedule 3, Table 2, section 2 and section 2.1 such that both these sections include the following (new activities are in italics):

  (a) Review of a preliminary site investigation report
  (b) Review of a detailed site investigation report
  (c) Review of a report on background levels of a substance
  (d) Review of a report on the derivation of site-specific standards
  (e) Review of a remediation plan which does not include a risk assessment or environmental impact assessment
  (f) Review of a remediation plan which includes a risk assessment or environmental impact report
  (g) Review of a risk assessment and/or environmental impact report not included in a remediation plan
  (h) Review of a covenant prior to registering

  A fee will be charged for the review of each report or plan for which a separate fee is specified above even though more than one report or plan is contained in a single document.

The fees for the new activities in Schedule 3, Table 2, item 2 will be as follows:

I	II	III	IV	V	VI	VII
(c) Review of a report on background levels of a substance	$ 250	$1000	$2000	$ 250	$1000	$ 2000
(d) Review of a report on the derivation of site - specific standards	$ 250	$1000	$2000	$ 250	$1000	$ 2000
(g) Review of a risk assessment and/or environmental impact report not included in a remediation plan	$ 800	$1600	$2400	$3000	$6000	$12000

The fees for the new activities in Schedule 3, Table 2, item 2.1 will be as follows:

I	II	III	IV	V	VI	VII
(c) Review of a report on background levels of a substance	$•	$•	$•	$•	$•	$•
(d) Review of a report on the derivation of site - specific standards	$•	$•	$•	$•	$•	$•
(g) Review of a risk assessment and/or environmental impact report not included in a remediation plan.	not applicable	not applicable	not applicable	not applicable	not applicable	not applicable

4. Schedule 3, Table 3, Class 11 includes (i) inorganic substances, (ii) volatile petroleum hydrocarbons and benzene, toluene, ethylbenzene, and xylene, (iii) light extractable hydrocarbons and polycyclic aromatic hydrocarbons listed in Schedule 4 and 5, and (iv) heavy extractable petroleum hydrocarbons and polycyclic aromatic hydrocarbons listed in Schedules 4 and 5, "which originate only from use of a site as an automotive service station or as a retail petroleum product dispensing facility." Similar facilities exist not only in the retail petroleum industry, but also in private operations of the forest industry, mining industry, transportation industry and other businesses that undertake the vehicle maintenance and fuel dispensing.

The rationale for Class 11 in Schedule 3, Table 3 is that the four classes of product (classes 1 through 4) are commonly intermingled at facilities that service vehicles and dispense fuel. Limiting Class 11 to retail outlets only is not considered to be fair or appropriate.

- **Proposal:**

  Amend Schedule 3, Table 3, Class 11 to read as follows:

11 - substances corresponding to items 1 to 4 above which originate only from the use of a site as a vehicle service station or petroleum product dispensing facility

5. Fees are allocated based on the size of the site. "Site" is not defined in the WMA or CSR. The Ministry commonly, but not always, establishes site size based on the area of the legal parcel. In some cases, site size is based on the area of contamination.

The size of a site based on legal parcel size does not accurately reflect the significance of the contamination issues that are the subject of a review or application. As such, minor matters are often classified within the "medium" or "large" site category.

- **Proposal:**

  The size of a site, for the purpose of fee determination, should be defined, where possible, by the areal extent of contamination. If the areal extent of contamination is not known or can not be reasonably estimated, size will be determined based on the area of the legal parcel.

  Add the following as section 9(19):

  (19) For the purpose of determining the fee payable in Table 2 of Schedule 3, site size will be determined as follows:

  (a) if the areal extent of the contamination of an affected legal parcel is known, the known areal extent of the contamination;
  (b) if the areal extent of the contamination of an affected legal parcel is not known but the manager determines that a reasonable estimate of such areal extent can be made, the manager's estimate of the areal extent of the contamination;
  (c) if neither subsection 19(a) nor 19(b) apply in respect of the contamination of an affected legal parcel, the total area of the affected legal parcel; and
  (d) if the site includes more than one legal parcel, the aggregate of the areas of contamination determined for each legal parcel pursuant to subsections 19(a), (b) and (c), as applicable.

[Note – this section has been redrafted to respond to Tom Eason's comment that the prior draft did not accommodate a situation where contamination was on more than one lot, but its areal extent was only known in respect of some but not all of the lots - ie. a likely situation if an affected neighbour were unwilling the permit a DSI to be carried out on its site. It also clarifies that one fee applies to an affected area, regardless of the number of legal parcels involved.]

6. Fees are also allocated based on the complexity of a site. One determinant of whether a site is a simple site is whether the substances at the site are in a single substance class. Another determinant is whether the substances are located within not more than two areas

of the site. However the presence of more than one contaminant class and the number of locations at which the substances are located do not necessarily reflect the complexity of the environmental issues at the site. Rather, intermingling of contaminants, the media impacted, site geologic and hydrogeologic conditions, physical setting and site conditions, and other variables define the complexity of a contaminant issue and the manner in which it may be addressed.

- **Proposal:**

  Develop a matrix approach to define site complexity. The matrix and consequential CSR amendments will not be ready for this round of amendments.

July 31, 2000

Contaminated Sites Implementation Committee

INDEPENDENT REMEDIATION (Issue #3)

Statement of Issue:

The Canadian Petroleum Producers Institute ("CPPI") and the Urban Development Institute ("UDI") are concerned that the independent remediation process is not assisting industry in remediating sites efficiently and is not being administered consistently by the Ministry's regional offices. Draft Guidance Document #4 ("Investigation and Remediation Processes and Local Government Permit Process") does not clearly explain how the independent remediation process is to work. A person should not have to be a "responsible person" to carry out independent remediation.

The UBCM is concerned that the present process does not provide for timely notification of municipalities and neighbouring property owners of potential off-site contamination from a site subject to independent remediation.

The Ministry would like guidance regarding the circumstances in which requirements should be imposed on a person carrying out independent remediation pursuant to WMA, s. 28(3)(d). The Ministry would also like to ensure that where independent remediation is proceeding without manager-imposed requirements, off-site contamination is addressed and remediated within a reasonable time.

Background to Issue:

WMA, s. 28 allows a responsible person to carry out independent remediation. CSR, s. 56 addresses precedence of remediation orders and voluntary remediation agreements over independent remediation, and CSR, s. 57 sets out how notice of independent remediation must be provided.

Draft Guidance Document #4 explains the independent remediation process including how independent remediation relates to the local government permit process. If a permit is required from local government, the Ministry will become involved in the process as a site profile will need to be submitted.

Protocol 6 ("Protocol for Contaminated Sites: Extent Manager May Rely on Statements By Qualified Professionals") describes the process whereby the manager may rely on the statement of a qualified professional if a low or moderate risk site is being remediated under the independent remediation process.

Proposal:

1. Guidance Document #4 should be re-written to:

   (a) more clearly describe the independent remediation process;
   (b) modify the process to allow industry to manage contamination in a flexible, cost effective and independent manner so that the stated purposes of the process can be achieved;
   (c) improve the process so that the process, including obtaining a certificate, can be completed within a reasonable time;
   (d) specify typical circumstances under which requirements will be imposed by a manager on a person undertaking independent remediation pursuant to WMA, s. 28(3)(d);
   (e) have the process apply to a wider range of sites;
   (f) remove the requirement that a person wishing to proceed with independent remediation be required to confirm that the person is responsible for any contamination associated with the site (requires amendment to WMA);
   (g) ensure that the process is administered consistently in the Ministry regions;
   (h) facilitate the remediation of off-site contamination under the process provided that an agreement has been reached with off-site landowners;
   (i) provide clear direction to municipalities regarding the issuance of permits regarding a site remediated by independent remediation;
   (j) distinguish the definition of "remediation" in the WMA and the CSR from the modified definition of "remediation" associated with notification of commencement of independent remediation in Guidance Document #4;
   (k) modify the Ministry's site profile decision letters and acknowledgement of independent remediation commencement letters in line with the revised Guidance Document # 4.

2. Persons carrying out independent remediation must be required to inform neighbouring property owners of potential off-site contamination.

3. The independent investigation of potentially contaminated sites should be facilitated by eliminating the duty to submit a site profile pursuant to WMA, section 26.1(1)(b)(iv) (demolition permit application) provided that soil is not substantially disturbed during demolition.

Proposed Wording Changes:

1. CSIC recommends that the Independent Remediation Subcommittee be authorized to prepare a revised draft Guidance Document #4 by the end of 2000 to deal with the various issues referred to above regarding Proposal 1.
2. Amend CSR, s. 57(1) as follows:

   (1) A person who has a duty to provide notification to a manager of commencement of independent remediation under section 28(2)(a) of the Act must *provide written*

notice to the manager within 3 days after any onsite remediation activity involving handling, management or treatment of contamination, other than activity which has the purpose of obtaining results for investigation purposes, giving:

(a) the legal description, including parcel identifier numbers and latitudinal and longitudinal references, and civic address of the parcel or parcels of land at the site to be remediated;

(b) the name and address of the person or persons who hold title to the parcels of land at the site to be remediated;

(c) the name, address and telephone number of the person to contact regarding the remediation activities to be undertaken at the site; and

(d) a general description of the nature of the contaminated site and the remediation being conducted.

3. Add the following as CSR, s. 57(2) and renumber existing CSR, s.57(2) as s. 57(3):

(2) A responsible person who carries out independent remediation of a site pursuant to section 28(1) of the Act must, if the responsible person knows that a substance listed in any of Schedules 4, 5 or 6 has migrated, or likely migrated, to a parcel of land other than the site, provide written notification to the person who holds title to such parcel of land ***[and a copy of the notice to the manager]*** *within 15 days after the responsible person becomes aware of the migration or likely migration of the substance to such parcel of land giving:*

(a) the name and address of the person or persons who hold title to the parcel or parcels of land at the site to be remediated,

(b) the name, address and telephone number of the person to contact regarding the remediation activities to be undertaken at the site, and

(c) a general description of the nature of the contaminated site and the remediation being conducted and the person's knowledge of the migration or likely migration of the substance from the site.

4. Add the following as CSR, s. 60.1:

Notification of Adjacent Owners

60.1 An owner or operator of a site who carries out a site investigation which discloses that a substance listed in any of Schedules 4, 5 or 6 has migrated, or has likely migrated, to another parcel of land, must provide written notification to the person who holds title to such parcel of land ***[and a copy of the notice to the***

manager] *within 15 days after the person becomes aware of the migration or likely migration of the substance to such parcel of land giving:*

(a) the name and address of the person or persons who hold title to the site subject to the site investigation;

(b) the name, address and telephone number of the person to contact regarding the investigation; and

(c) a general description of the nature of the owner's or operator's knowledge of the migration or likely migration of the substance from the site.

[Note: CRS, s. 57(2) and s. 60.1, as currently drafted, require notification if a polluting substance in any concentration has migrated to a neighbouring property.]

5. Add the following as CSR, s. 4(8) and renumber existing CSR, s. 4(8) to 4(13), inclusive:

(8) A person is exempt from the duty to provide a site profile in connection with an application for a demolition permit under section 26.1 (1)(b)(iv) of the Act if the demolition does not involve any disturbance or excavation of soil other than that which is incidental to the demolition.

July 31, 2000

Contaminated Sites Implementation Committee

SOIL RELOCATION AGREEMENTS (Issue #4)

Statement of Issue:

The costs and delays from complying with the WMA process regulating the reuse of contaminated soils is resulting in unnecessary landfilling of some contaminated soils.

Background to Issue:

Pursuant to WMA, s. 28.1, a person may not relocate contaminated soil from a contaminated site without entering into a contaminated soil relocation agreement (SRA) with a manager. The regime for dealing with SRAs is set out in CSR, Part 8. This process to control the movement of contaminated soil was included in the in the WMA to address concerns of municipalities, while permitting the use of soils at appropriate sites (i.e. soils exceeding the residential standards but less than the industrial standards could be used at an industrial site). This approach allows the reuse of soil where appropriate and reduces the quantity of soil being sent to landfills.

Guidance Document 1 ("Site Characterization and Confirmation Testing") provides information regarding the characterization of soils from the contaminated (donor) site and Guidance Document 5 ("Sampling and Determining Soil pH at Soil Relocation Receiving Sites") provides information regarding the characterization of receiving sites for soil relocation purposes.

Statistics provided by the Ministry indicate that SRAs are not widely used, particularly in the Lower Mainland. Anecdotal evidence suggests that SRAs are not used by developers in some cases because of the time taken to obtain SRAs. Therefore, developers often choose to send soils to landfills rather than going through the SRA process. To the extent that the SRA process inhibits the reuse of contaminated soils in appropriate circumstances, landfill capacity is being unnecessarily used.

Proposal

[Proposal still under discussion as to whether the use of the professional experts process should be expanded.]

In an effort to facilitate the use of SRAs, CSIC proposes that professional experts on the roster be able to recommend to a manager when to enter into an SRA regarding soil from a low to moderate risk source site. Changes to Protocol 6 will be required to provide the same safeguards currently found in that Protocol (Ministry overview and scrutiny) in relation to the use of professional experts for independent remediation. Specifically the CSIC recommends:

- Allow professional experts on the roster to evaluate soil from the donor and receiving sites to determine if a receiving site is suitable for the soil. The professional expert will provide a recommendation to the manager indicating that the soil is suitable for relocation to the receiving site. The manager may sign the SRA based on the recommendation of the professional expert.

- This process will only apply if the donor site is a low or moderate risk site.

- Add a fee for the Ministry to process an SRA recommended by the professional experts.

- The professional expert is responsible for providing the completed SRA with the land owner(s) signatures to the manager with copies of any municipally required soil deposition permits for the receiving site(s).

- Alter the time within which municipalities must be notified of soil relocation (change in CSR required).

- The Ministry to provide a fact sheet regarding the status of SRA requirements for SRA sites. This educational information will be available for municipalities to distribute to interested parties and contractors.

Proposed Wording Changes

A draft of the revised Protocol 6 is included at Tab 1 (Review Process Timelines (Issue #1)).

The following changes to the CSR are required:

1. Renumber CSR s. 43 as CSR, s. 43(1) and add the following to CSR, s. 43:[1]

   (2) A responsible person making an application described in subsection (1) respecting a site classified under section 53(1)(i) as a low or moderate risk site may include in the application a recommendation of a professional expert listed on the roster established under section 49.1 that the application be approved in which case section 49.1(2) shall apply.

   (3) If a manager rejects an application described in subsection (3), the manager must provide written reasons for the rejection within 15 days of the rejection to:

   (a) the applicant,

   (b) the director, and

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[1] See footnote #1 @ Tab 1

(c) *the Association of Professional Engineers and Geoscientists of the Province of British Columbia.*

2. Amend CSR, s. 44(b) to read:

(b) wait at least **[insert number of hours/days]** from the time of receiving the approved contaminated soil relocation agreement before moving any contaminated soil.

[This change is currently under discussion.]

3. Amend CSR, s. 49.1(2) to read:

(2) On processing an application described in section *15(3)*, *43(1)*, 47(1) or (4) or 49(1), a manager may consider, in determining the manner and extent of the review that must be undertaken of the work on which the application is based, *whether the application includes a recommendation of a professional expert listed on the roster established under subsection (1) that the decision requested in the application be made.*

4. Amend Schedule 3, Table 2, section 3(a) to read "Contaminated soil relocation agreement not processed under section 43(2)" and add the following to Schedule 3, Table 2, section 3:

I		II	III	IV	V	VI	VII
(b)	*Contaminated soil relocation agreement processed under section 43(2).*	$50	$50	$50	$80	$150	$300

[Note that this reduced fee is payable upon a person making the application. If the manager decides to review the application in detail, notwithstanding the professional expert's recommendation, there is no provision for an increased fee.]

July 31, 2000

Contaminated Sites Implementation Committee

MINE SITES (Issue #5)

No report regarding this issue.

July 31, 2000

Contaminated Sites Implementation Committee

RISK-BASED STANDARDS AT WIDE AREA SITES (Issue #6)

Statement of Issue:

Risk-based standards based on biological metrics (e.g. blood lead values) may be appropriate standards for remediation of certain wide area contaminated sites but are not currently permitted under CSR, s. 18, which deals with risk based remediation standards.

Background to Issue:

CSR, s. 18 provides for remediation to risk-based standards. The standards provided for in CSR, s. 18 are toxicological standards based on cancer risk and hazard indices.

The Trail Blood Lead Task Force is in the process of completing a human health risk assessment for smelter related soil/dust contamination in Trail. The Task Force has requested that blood lead values be used as the risk-based standards in Trail rather than the toxicological standards currently provided for in CSR, s. 18.

A manager may designate a wide area site in respect of specified contaminants and specified sources of the contaminants if the area is large, comprises many lots and many of the lots are likely contaminated sites (CSR, s. 14).

Proposal:

CSR, s. 18 be amended to provide for the use of standards recommended by the local medical health officer and endorsed by the provincial health officer in respect of wide area sites. The director will maintain the discretion to decide whether application of these standards will be acceptable in a particular case. This change does not preclude the use of cancer risk and hazard indices for wide area sites.

Proposed Wording for Changes:

See attached.

July 31, 2000

Contaminated Sites Implementation Committee

BROWNFIELDS (Issue #7)

No report regarding this issue.

July 31, 2000

Contaminated Sites Implementation Committee

CERTIFICATES OF COMPLIANCE (Issue #8)

Statement of Issue:

Although a responsible person may have remediated a contaminated site in accordance with the WMA, a manager retains the right to require further remediation in certain circumstances. These circumstances should be circumscribed by policy to give those carrying out remediation some comfort that they will most likely not be required to carry out further remediation.

Background to Issue:

A fundamental premise of the WMA is that responsible persons are jointly and severally, absolutely and retroactively liable for remediation of contamination. Even if a responsible person has remediated a site, and is issued a certificate of compliance or conditional certificate of compliance, the responsible person is not released from future remediation requirements. Pursuant to WMA, s. 28.7, a manager may require further remediation, notwithstanding the issuance of a certificate if:

(a) additional information relevant to establishing liability for remediation becomes available (including information that indicates that a person is not a minor contributor);

(b) standards are revised so that the conditions at the site contravene the new standards;

(c) the condition or use of the site changes;

(d) the site poses a threat to human health or the environment;

(e) a responsible person fails to exercise due care with respect to any contamination at the site; or

(f) a responsible person contributes to contamination at the site.

The manager's right to require further remediation applies notwithstanding that the responsible person has entered into a voluntary remediation agreement regarding the site with a manager.

Proposal:

The Ministry adopt a policy which will clarify that the manager should not exercise the powers under CSR, s. 28.7(b) and (c) to require additional remediation unless there is a threat or danger to human health or the environment. The draft policy is attached.

McCarthy Tétrault

Vancouver Office

MEMORANDUM

TO: Financial Security Subcommittee of CSIC

FROM: Jim Titerle

DATE: March 16, 2000

RE: Summary of Financial Security Statutory Provisions and Submissions

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FINANCIAL SECURITY PROVISIONS IN THE WMA AND CSR

Circumstances when financial security may be required

1. WMA, s. 27.1(2) - "A remediation order may require a [responsible person] to do all or any of the following

    (c) give security in an amount and form, which can include real and personal property, subject to conditions the manager specifies."

2. WMA, s.27.4(1) - "A manager may, on request by a responsible person, including a minor contributor, enter into a voluntary remediation agreement consisting of

    (c) security in an amount and form which may include real and personal property, subject to conditions the manager specifies."

3. WMA, s. 27.6(2)/(3) - "A manager in accordance with the regulations may issue a certificate of compliance/conditional certificate of compliance with respect to remediation of a contaminated site if

    (b)/(d) any security in an amount and form, which may include real and personal property, required by the manager has been provided relative to the management of substances remaining on the site."

4. WMA, s. 28.1(4) - "A manager may, as a condition of entering into a contaminated soil relocation agreement, require the person requesting the agreement to provide

    (b) security in an amount and form, which may include real and personal property, subject to conditions the manager specifies."

5. CSR, s. 48(4) - "A manager may require financial security if:

(a) a significant risk could arise from conditions at a contaminated site because

(i) the site is left in an unremediated or

(ii) the site is remediated using risk based standards but requires ongoing management and monitoring of contamination which is left on the site, and

(b) a covenant under section 219 of the *Land Title Act* is, in the opinion of the manager, unlikely to be an effective means to ensure that necessary remediation is carried out at the site."

Purpose of financial security

6. CSR, s.48(5) - "The financial security required by a manager under subsection (4) may be for the purpose of any or all of the following

(a) ensuring that a responsible person completes remediation or guarantees performance to the satisfaction of the manager;

(b) providing funds to further treat, remove or otherwise manage contamination;

(c) complying with the applicable legislation and financial management and operating policies of British Columbia."

MELP'S "INTERIM PROCEDURE FOR OBTAINING SECURITY FOR CONTAMINATED SITES" (SEPTEMBER, 1999)

General

7. Potential liability regarding a contaminated site is determined by:

- the environmental risks of the contaminants (i.e. amount, toxicity, concentration, mobility and proximity of receptors), and
- the financial ability and willingness of the responsible persons to address the contamination.

In what circumstances is security required

8. Low and moderate risk sites - security <u>should not</u> be required.

9. Medium risk sites - security may be required if remediation relies on monitoring or contingent remediation resulting from monitoring, however:

   ! security should be limited to the amount required to secure monitoring requirements if a contingent remediation funding source exists (except in extraordinary circumstances);

   ! security should not be required if a monitoring budget with an environmental consultant or staff person is established.

10. Intermediate and high risk sites - security may be required if remediation relies on (i) monitoring or contingent remediation resulting from monitoring results or (ii) a risk based approach that is dependent on the continued operation of containment and control systems and ongoing monitoring, however:

   ! security should not be required if a responsible person establishes an alternate remediation plan and budget for fulfilment of outstanding remediation commitments; unless the responsible person leaves B.C. or fails to annually demonstrate that the alternate plan is capable of meeting remediation obligations.

Contingencies covered by the security

11. The security can apply to two types of contingencies. The "minimum security" is to ensure that monitoring is carried out and that the systems designed to contain/control contaminants are maintained. The "additional security" is to ensure that, to the extent practical, remediation solutions are permanent and sites are not left in a state where site usage is restricted. If financial security is required, the "minimum security" is mandatory and the need for "additional security" is dependent on the permanence of the remediation proposed and longer term waste reduction commitments.

   ! to give a responsible persons an opportunity to complete a more permanent solution and thereby reduce the amount of the "additional security", the "additional" security "may be deposited over time if:

      • a feasibility assessment demonstrates that more permanent alternate solutions are not viable;

      • an AIP has been issued;

      • the responsible person has the financial ability to complete the required remediation, establishes that there is an alternate funding source dedicated to the completion of the remediation and provides an annual report to MELP confirming that required remediation funding is available.

Amount of security/timing of payment

12. Minimum security - The calculation of "minimum security" is a two-step process:

- ! preliminary estimate - preliminary estimate of the net present value of the costs of operating, maintaining and periodically replacing contain/control systems and monitoring will be calculated using a interest rate of 3% and a term of 50 years. Capital replacements assume a 20 year replacement period. 50% of the above estimated "minimum security" will be deposited with the Ministry within 3 months.

- ! detailed estimate - a detailed estimate of above costs (plus capital costs) must be submitted and security for 100% of the costs submitted to the Ministry within one year. Costs to be verified by a CGA.

13. Additional security - "Additional security" is to cover costs of removing and disposing or treating contaminants in the upper 3 metres of the site.

- ! the amount of the security will be 10% of the costs where the contaminants are classified as waste, and a greater percentage of the costs if contaminants are special wastes or where any contaminant exceeds its industrial concentration standard by a factor of 10.

- ! 10% of the estimated removal costs will be deposited within three months and the balance (the amount of which is to be determined after consultation with stakeholders) within two years.

BCBC'S RESPONSE TO MELP'S INTERIM PROCEDURE

General

14. Financial security should not be required of larger business operators with a significant presence and track record in British Columbia.

15. The level of risk should be based on a risk assessment, rather than the definitions of high and intermediate risk sites as in MELP's proposal. Also, the risk at a site should not take into account the amount of contaminated material and its concentration as these factors become irrelevant once exposure pathways are eliminated.

In what circumstances is security req[illegible]

16. The financial ability and willingness of responsible persons to pay should be a significant factor in determining whether security is required.

17. Low and moderate risk sites - Change to provide that no security will be rather than should be, required for these sites.

18. Medium risk sites - If a person establishes a monitoring budget with a consultant or staff person, change to provide that MELP will not, rather than should not, require security.

19. Intermediate and high risk sites:

- Security requirements should not be based on long term waste reduction.
- Risk based remediation, if appropriately implemented, represents a permanent solution and therefore there is no need for security to cover soil removal - i.e. for the "additional security".
- The amount of security required should be based on the following factors:
  - cost to implement the remediation;
  - need to provide funding for short term anticipated emergency situations;
  - need to provide funding to guarantee ongoing management and monitoring under risk based remediation.

Contingencies covered by the security

20. There should be no requirement for "additional security" to cover the costs of removing the upper 3 metres of soil - this is not a land use standard under the CSR.

Amount of security

21. No financial security should be required if the costs are less than $1,000,000 and the maximum amount of security should be capped at $5 or $10 million.

22. Using stakeholders to determine the appropriate level of security will result in delays, uncertainty and costs (depending on who MELP considers are stakeholders).

WCELA RESPONSE TO MELP'S INTERIM PROCEDURE

General

23. Where there is any risk that a responsible person may walk away from remediation obligations, financial security should be required to cover the costs of restoring a site to its original condition or, at a minimum, to cover the costs of ongoing control.

24. The position of MELP is similar to that of a commercial lender. If a site is not adequately remediated, ultimate responsibility for clean-up will fall on the taxpayer. Therefore, the procedure should focus on defining the narrow exceptions to the need for security, rather than limiting its security to the narrowest of circumstances.

In what circumstances is security required

25. The financial ability and willingness of responsible persons to pay should not be a factor in considering whether financial security should be required - this determination should be based on risk alone.

26. All sites including low and moderate risk sites should be subject to security requirements.

27. Medium risk sites - The existence of a remediation funding source or a monitoring budget is not sufficient - there should be actual security posted.

28. Intermediate and high risk sites - Financial security should almost always be required for intermediate and high risk sites.

- ! the existence of an alternate remediation plan and a budget is not sufficient - actual security is required.
- ! it is too late to get security from a party that has left British Columbia. Security should be paid upfront, not over time.
- ! any reductions in security should be based on reductions in risk rather than feasibility assessments, financial ability and alternate funding sources.

Contingencies covered by the security

29. Both "minimum security" and "additional security" should be considered mandatory requirements.

Amount of security / timing of payment

30. Minimum security - costs should be calculated based on the prime rate, not 3%. 100%, not 50%, of the preliminary estimated costs should be advanced. The security should be deposited within a few weeks not months. The time lapse between the preliminary and detailed estimate of costs should be a month or two, rather than one year.

31. Additional security - Costs should be based on specific characteristics of site, not on an arbitrary 3 metres depth. 100%, not 10%, of the estimated contaminated soil removal costs should be deposited upfront - not after a 2 year period.

SUMMARY OF ISSUES

32. A financial security policy should deal with the following issues:

- ! in what situations security is required
  - nature of risk;
  - characteristics of responsible persons;
- ! what type of security is required
- ! calculation of the amount of security
  - process for determining the amount of security;
  - limits on amount of security;
- ! when must the security be put in place;
  - in stages or all up front;
- ! when may the security be released
  - process for demonstrating risk reduction;
- ! what contingencies are to be covered by the security
  - monitoring;
  - conduct of remediation work;
  - contaminant/control operations and maintenance, including periodic replacement;
  - removal of contaminants if risk based approach fails;

[should we find out what security is taken in other jurisdictions]

BRITISH COLUMBIA

RECEIVED
OCT - 5 1999
JAF

September 29, 1999

To: Distribution List

Please find enclosed the draft procedure, "Interim Procedure for Obtaining Security for Contaminated Sites."

I request that members of CSIC and our regional waste managers provide review comments to me by no later than Oct 29, 1999.

Our intent is then to review your comments, determine if any changes are required, and following such changes, release the draft for 3 months of full public consultation.

I appreciate your assistance.

Yours truly,

Ron Driedger
Director

Enclosure

cc: Regional Directors
Regional Managers

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Ministry of Environment, Lands and Parks
Director
Pollution Prevention & Remediation Branch
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PO Box 9342 Stn Prov Govt
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BRITISH COLUMBIA

MINISTRY OF ENVIRONMENT, LANDS AND PARKS
Environment and Resource Management Department

Name of procedure:
Interim Procedure for Obtaining Security for Contaminated Sites

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Staff affected:
Ministry of Environment, Lands and Parks Contaminated Sites Program staff

Authority:
Waste Management Act and Contaminated Sites Regulation

Purpose of procedure:
This procedure is to provide guidance to regional Pollution Prevention Managers concerning the circumstances when security may be required, and the procedures for determining the amount and timing of security provided.

Relationship to previous procedure:
None

Recommended by: _____ Date: _____
Deputy Director of Waste Management

Issued by: _____ Date: _____
Assistant Deputy Minister
Environment and Lands Headquarters Division

_____ Date: _____
Assistant Deputy Minister
Environment and Lands Regions Division

99/09/03

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1.0 Definitions:

High risk site - a contaminated site determined to be a high risk site under the Canadian Council of Ministers of the Environment National Classification System for Contaminated Sites, 1992 or a site using risk based remediation that scores 50 points or more in the matrix provided in Appendix I, Table 1.

Intermediate risk site - a contaminated site determined to be an intermediate risk site under the Canadian Council of Ministers of the Environment National Classification System for Contaminated Sites, 1992.

2.0 General:

The degree of environmental risk associated with a contaminated site is related to the amount of contaminated material present on the site, the toxicity of the contaminants, the concentrations of the contaminants, the mobility of the contaminants and the proximity of receptors that can be acutely or chronically affected by transported contaminants.

The potential liability associated with a contaminated site is determined by the environmental risks of the contaminants present, the financial ability of responsible persons to properly address the contamination, and the willingness of responsible persons to properly address the contamination.

The ministry, in determining if a remediation order is necessary to appropriately address contamination on a site, also needs to determine the financial ability and willingness of responsible persons to remediate a contaminated site in a proper and timely manner.

The Contaminated Sites Regulation, section 48, provides general principles on financial security requirements:

48 (4) A manager may require financial security if
- a) a significant risk could arise from conditions at a contaminated site because
  - i) the site is left in an unremediated state, or
  - ii) the site is remediated using risk based standards but requires ongoing management and monitoring of contamination which is left on the site, and
- b) a covenant under section 219 of the Land Title Act is, in the opinion of the manager, unlikely to be an effective means to ensure that necessary remediation is carried out at the site.

48 (5) The financial security required by a manager under subsection (4) may be for the purpose of any or all of the following:
- a) ensuring that a responsible person completes remediation or guarantees performance to the satisfaction of the manager;
- b) providing funds to further treat, remove or otherwise manage contamination;
- c) complying with the applicable legislation and financial management and operating policies of British Columbia.

Once the need for financial security is established, there are two components needed to determine the amount of security required:

- Component one ensures that systems designed to contain and control contaminants on a site and to monitor the environment are maintained. This component represents the minimum security required.
- Component two ensures that a site has adopted to the extent practicable, remediation solutions that are permanent and that sites are not left permanently in a state where site usage is restricted.

3.0 Procedure:

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3.1 Determine if Security is Required

In accordance with the *Waste Management Act*, the ministry can only require financial security if:

i. a manager is issuing a remediation order (section 27.1);
ii. a responsible person is requesting a Certificate of Compliance or a Conditional Certificate of Compliance (section 27.6);
iii. a manager is entering into a Voluntary Remediation Agreement (section 27.4), or
iv. a manager is entering into a Contaminated Soil Relocation Agreement (section 28.1).

General principles on financial security requirements are presented in section 48 of the Contaminated Sites Regulation. The following provides direction on when the ministry should consider the need for financial security.

A. This procedure does not apply to mine sites that have a Ministry of Mines and Ministry of Environment approved closure plans and security as required under the *Mines Act*. (*Mine waste is secured in accordance with a Memorandum of Understanding between the Ministry of Environment and the Ministry of Energy and Mines. Ministry of Environment acceptance of security and management conditions is conveyed through an Approval in Principle. Waste rock dumps and tailings impoundments are permanent features of the remediation (closure) mine plan. Risks associated with these potential contaminants are risk managed through engineered solutions, primarily collection and treatment systems combined with financial security determined necessary by the Ministry of Energy and Mines*).

B. *Low and moderate risk contaminated sites*: Financial security should not be required. Monitoring requirements, if any, can be secured by registration on the Site Registry, or by covenant on land title.

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C. *Medium risk contaminated sites*: Financial security may be required if remediation relies on monitoring or contingent remediation resulting from monitoring results; however, restrictions apply.

Excepting extraordinary circumstances requiring confirmation by the Deputy Director of Waste Management, any financial security requirements of the ministry should be limited to the extent of securing monitoring requirements, provided a contingent remediation funding source acceptable to the ministry is demonstrated to exist.

Financial security should not be required by the ministry if a responsible party or a property owner establishes a monitoring budget with an environmental consultant or staff person under terms acceptable to the ministry.

D. *Intermediate and high risk contaminated sites*: Financial security may be required if remediation relies on:

i. monitoring or contingent remediation resulting from monitoring results, or
ii. risk based standards and approach that is dependent on the continued operation of containment and control systems and on-going monitoring.

Security should not be required if a responsible party or a property owner establishes an alternate remediation plan and budget for fulfilment of outstanding remediation commitments, whether these be monitoring obligations, additional remediation contingent on monitoring results, or continued operation and maintenance of containment and control systems.

The ministry retains the right to require financial security should the person(s) party to an alternate remediation plan and budget either remove from the Province of British Columbia, or fail to annually demonstrate that the alternate is capable of meeting remediation obligations.

Where the ministry determines that financial security is required for an intermediate or high risk contaminated site, the minimum security, as presented in 3.2 below is mandatory. The remaining security requirements as presented in 3.3 are dependent on the permanence of the remediation proposed and longer term waste reduction commitments.

To provide the responsible person(s) opportunity to complete more permanent remediation steps that could reduce the overall security requirements of 3.3, security requirements as presented in 3.3 may be deposited over an negotiated time frame provided the following conditions are first satisfied:

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i. a feasibility assessment acceptable to the ministry has been completed that demonstrates more permanent alternative remediation solutions are not viable,
ii. the ministry has issued an Approval in Principle for the remediation plan,
iii. the responsible person(s) demonstrates to the ministry's satisfaction that they have the financial ability to complete the required remediation, that an alternate funding source dedicated to the completion of the required remediation has been established, and that the responsible person(s) has committed to providing to the ministry an annual report under certified audit to demonstrate the required remediation funding is available.

3.2 Calculate the Minimum Security that Would Be Required

The minimum security is the amount needed to ensure the long term operation, maintenance, and periodic replacement of necessary containment and control systems, and for ensuring the performance of environmental monitoring. Determining minimum security is a two step process:

3.2.1 Step 1: Preliminary Estimate

A preliminary estimate of the costs associated with the long term operation, maintenance, and periodic replacement of containment and control systems, and for environmental monitoring shall be calculated using a real interest rate of three (3) percent, and a net present value of 50 years.

Capital replacement estimates shall be calculated assuming a 20 year replacement period.

Containment and control must encompass all site contaminants, and must be capable of containing and controlling all the chemical phases present.

Fifty percent of the above estimated minimum security shall be deposited with the ministry within three months of the ministry's determination that security is required.

3.1.2 Step 2: Detailed Estimate

Within one (1) year of depositing 50 percent of the preliminary estimate, the responsible persons must submit to the manager a detailed estimate of costs associated with building and installing the containment system(s), operating costs, monitoring costs, detailed calculations of the security required, and the vehicles acceptable to the ministry through which security shall be deposited.

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The detailed cost breakdown must be signed by a Certified General Accountant, verifying its accuracy, and the risks associated with the investment or security vehicle(s) proposed.

The difference between the preliminary estimate and the detailed estimate will then be deposited with the ministry within three months of the ministry's agreement to the step 2 submission. If the amount of the detailed estimate is less than the step 1 deposit, the ministry will refund the difference within three months of its agreement to the step 2 submission.

3.3 **Calculate Liability Associated With Potential Costs of Contaminant Removal and Disposal**

Estimate the costs associated with removing and disposing, or removing and treating and replacing all contaminants in the upper three metres of the site.

Where native soils of low permeability are encountered above 3 metres depth below the ground surface, the calculated soil volumes subject to security may be reduced to include only those that exist above the native confining unit.

The security required shall be 10 percent of the above costs where the contaminants are classified as waste, and a greater percentage of the above costs, to be determined following consultations with stakeholders, where the contaminants are classified as special waste or where any contaminant exceeds its industrial concentration standard by a factor of ten (10).

Ten percent of the estimated removal costs shall be deposited with the ministry within three months of the ministry's determination that security is required. The remaining balance is deferred for two years, at the end of which, the responsible parties must provide the ministry with a greater percentage of the above costs, to be determined following consultations with stakeholders, associated with removing and disposing, or removing and treating and replacing all contaminants remaining in the upper three metres of the site.

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Appendix I: Table I. Point score sheet for determining need for institutional controls for sites using risk-based standards for remediation.

Instructions: Assign points as indicated for each site specific factor or characteristic. Sum points assigned and report as "total points" for site.

	Site specific factor or characteristic	Points	Points Assigned
A.	Assign points from highest applicable category relative to whether the site has been under order, and if so, the type of order: • site has not been under order within last five years • site not currently under order, but has been within last five years • site currently under pollution abatement, pollution prevention, investigation or remediation order • site currently, or within last five years has been under Minister's Order • site is not currently in compliance with required dates specified in any order or Environmental Emergency declaration • site currently, or within last five years has been under Environmental Emergency declaration	0.0 1.0 5.0 10.0 10.0 20.0	
B.	Assign one (1) point for each 1000 cubic metres of contaminated soil/ waste which exceeds ten (10) times the applicable soil quality standards that is intended for risk management on source site	1.0 per 1000 m3	
C.	Assign one (1) point for each 5000 cubic metres of contaminated soil/ waste which exceeds applicable soil standards but does not exceed ten (10) times the applicable soil quality standards and is intended for risk management on source site	1.0 per 5000 m3	
D.	Assign one (1) point if groundwater underlying site is contaminated or five (5) points if contaminated groundwater discharging off site	1.0 or 5.0	
E.	Assign if contaminated groundwater is discharging to aquatic water body	10.0	
F.	Assign if contaminated groundwater is discharging to drinking water source	10.0	
G.	Assign five points (5) if NAPL exists on site or ten (10) points if NAPL has migrated off site	5.0 or 10.0	
H.	Assign if NAPL is discharging to aquatic water body	20.0	
I.	Assign if NAPL is discharging to drinking water source	20.0	
J.	Assign if soil vapour/ gas collection and/ or treatment is required	5.0	
K.	Assign if barrier/ cover required on site to prevent soil ingestion and dermal contact	5.0	
L.	Assign one (1) point if CSR applicable numerical soil standards are exceeded by 10 fold or five (5) if exceeded by 100 fold	1.0 or 5.0	
M.	Assign one (1) point if CSR applicable numerical water standards are exceeded by 10 fold or five (5) if exceeded by 100 fold	1.0 or 5.0	
N.	Assign one (1) point if sediments affected by migrating contaminants exceed applicable BC Environment numerical sediment criteria by 10 fold or five (5) if exceeded by 100 fold.	1.0 or 5.0	
	Total Points for Site		

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Appendix II: Act and Regulation Excerpts Supporting Guidance

The *Waste Management Act*, section 27.1, provides authority to the Manager to require financial security from a person responsible for a contaminated site.

27.1 (1) A manager may issue a remediation order to any responsible person.
(2) A remediation order may require a person referred to in subsection (1) to do all or any of the following:
a) undertake remediation;
b) contribute, in cash or in kind, towards another person who has reasonably incurred costs of remediation;
c) give security in an amount and form, which can include real and personal property, subject to conditions the manager specifies.

The Manager is directed under section 28.2 of the Waste Management Act to give preference to permanent solutions:

28.2 (1) A person conducting or otherwise providing for remediation must give preference to remediation alternatives that provide permanent solutions to the maximum extent practicable, taking into account the following factors:
(a) any potential for adverse effects on human health or for pollution of the environment;
(b) the technical feasibility and risks associated with alternative remediation options;
(c) remediation costs associated with alternative remediation options and the potential economic benefits, costs and effects of the remediation options;
(d) other prescribed factors, if any.

28.2 (2) When issuing an approval in principle, a certificate of compliance or a conditional certificate of compliance, a manager must consider whether permanent solutions have been given preference to the maximum extent practicable as determined in accordance with the guidelines, if any, set out in the regulations.

There are two remediation standards that may be used for remediation under the Contaminated Sites Regulation, these being the numeric standards and risk based standards. Risk based standards are the most flexible, but also entail greater risk in application and long term certainty. Numeric standards by definition imply permanence.

The Manager, in determining whether a remediation order should be issued, is directed to consider section 27.1 (3) of the *Waste Management Act*.

27.1 (3) When considering whether a person should be required to undertake remediation under subsection (2), a manager may determine whether remediation should begin promptly, and must particularly consider the following:
(a) adverse effects on human health or pollution of the environment caused by contamination at the site;
(b) the potential for adverse effects on human health or pollution of the environment arising from contamination at the site;
(c) the likelihood of responsible persons or other persons not acting expeditiously or satisfactorily in implementing remediation;

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(d) in consultation with the chief inspector appointed under the Mines Act, the requirements of a reclamation permit issued under section 10 of that Act;
(e) in consultation with a division head under the Petroleum and Natural Gas Act, the adequacy of remediation being undertaken under section 84 of that Act;
(f) other factors, if any, prescribed in the regulations.

The Contaminated Sites Regulation, section 48, provides general principles on financial security requirements:

48 (4) A manager may require financial security if
a) a significant risk could arise from conditions at a contaminated site because
i) the site is left in an unremediated state, or
ii) the site is remediated using risk based standards but requires ongoing management and monitoring of contamination which is left on the site, and
b) a covenant under section 219 of the Land Title Act is, in the opinion of the manager, unlikely to be an effective means to ensure that necessary remediation is carried out at the site.

48 (5) The financial security required by a manager under subsection (4) may be for the purpose of any or all of the following:
a) ensuring that a responsible person completes remediation or guarantees performance to the satisfaction of the manager;
b) providing funds to further treat, remove or otherwise manage contamination;
c) complying with the applicable legislation and financial management and operating policies of British Columbia.

July 31, 2000

Contaminated Sites Implementation Committee

UBCM ISSUES (Issue #10)

Statement of Issue:

The UBCM would like changes made to the CSR and the way it is implemented. These changes affect the interests of its members and are uncontroversial. Some of the issues will be resolved through regulatory change; others will occur through cooperative work between the UBCM and the Ministry. The issues and proposed changes are as follow:

Fees-Site Profiles

Background to the Issue

Under the CSR, local governments are required to screen all site profiles submitted and forward profiles that identify indicators of potential contamination to the Ministry for review.

The CSR currently allows a maximum fee of $50.00 for managing site profiles.

Due to the complexity of the site profile forms, local government has become the "gatekeeper" of the contaminated site process. Local government spends a lot of time with local citizens:

(a) explaining whether a site profile is required with respect to a property;

(b) explaining how to complete a site profile; and

(c) following up regarding a site profile which has been sent to the Ministry for review.

When the CSR was brought into force, it was anticipated that site profiles could be assessed by a clerk at the counter who would determine whether any "yes" boxes had been filled out. However, at the local government level, "due diligence" requires that the forms be screened by a qualified professional.

The current fee of $50.00 does not cover the cost of screening the site profiles. The estimated cost is in the range of a $100.00.

Proposal

The fee for screening site profiles be increased to $100.00.

Proposed Wording Changes

Increase the fee in Schedule 3, Table 1, item 1(a) from $50 to *"$100"*.

Soil Relocation

Background to the Issue

UBCM members are concerned about the public health risk and the potential liability a local government may assume when contaminated soil is moved from a site in one community to a site in another community.

Section 723 of the Municipal Act provides that, subject to the approval of the Ministry, local governments may establish bylaws to control the removal from, or deposit of soil in, their community. A number of local governments have regulated the level of contamination of the soil that may be deposited in their communities.

The public health issue regarding contaminated soil is politically sensitive and it is unlikely that a local government will fight any opposition to contaminated soil being brought into the community.

Proposal

This issue is currently being addressed in conjunction with the Soil Relocation Subcommittee of CSIC.

Local Government Re-Zoning Applications and the Requirement to Provide a Site Profile

Background to Issue

Pursuant to WMA, s. 26.1(1)(b), a local government which applies for or seeks approval for zoning of land that it knows or reasonably should know is or was used for certain industrial or commercial activities must provide a site profile to the manager. Pursuant to CSR, s. 3(2), a local government must provide the site profile to a manager not later than fifteen days after giving first reading to the applicable by-law.

Rezoning is a site profile trigger in the WMA because rezoning suggests that the property is in the process of being developed. Local governments have been informed that the Ministry has a legal opinion that local governments must file a site profile for property owned by the local government which is within an area being zoned by the local government, even though the local government may have no intention of developing its property. The UBCM submits that site profiles should not be necessary for local government owned industrial or commercial land subject to a blanket rezoning if there is no development currently proposed for the land.

The obligation to file site profiles in these situations is a concern to local governments because there is a cost to completing a site profile and assessing what a parcel of land may have been used for and to what extent this activity may have contaminated the soil, particularly if the local government obtained the property through non-payment of taxes.

The UBCM believes that site profiles submitted in such circumstances are not reviewed by the Ministry.

Proposal

The UBCM proposes that local government be exempted from the requirement to complete a site profile for property it owns in "blanket" zoning applications where no development of the local government's property is proposed. The local government property could be "flagged" to ensure that a site profile is filed if development of the property is planned. UBCM proposes that CSR, s.4(6) be amended as follows:

> *4(6) A municipality undertaking to zone or rezone land is exempt from the duty to provide a site profile under section 26.1(1)(b)(i) of the Act if:*
>
> *(a) the municipality does not have an ownership interest in the land; or*
>
> *(b) the zoning or rezoning applies to more than* **[insert minimum number of lots to which zoning must apply]** *parcels of land, the municipality does not own all of such parcels of land and the municipality does not have plans to develop the parcel or parcels of land that it owns within the area being zoned or rezoned.*

[Note: The CSIC did not reach a consensus on the issue and therefore the issue will be considered by the Independent Remediation Subcommittee as part of its review of site profiles.]

Administration

Background to Issue

The WMA and CSR provisions relating to contaminated sites is very complex.

Site profiles are difficult for local citizens to understand.

Due to the complexity of site profiles, local government has become the "gatekeeper" of the contaminated site process. Local government representatives spend significant time assisting local citizens by:

(a) explaining whether a site profile is required with respect to a property;

(b) explaining how to complete a site profile; and

(c) following up regarding site profiles which have been sent to the Ministry for review.

Local government requires a package of easily understood information from the Ministry to address questions regarding site profiles.

Local government staff require ongoing training if they are to continue to operate as the "gatekeepers" for this process.

Training is also needed to ensure that groups such as realtors and small developers are aware of and understand the requirements of the CSR.

Proposal

The UBCM would like the Ministry to:

(a) provide increased training regarding contaminated sites to those groups involved with the issue;

(b) provide an information package to address questions regarding site profiles.

CONTAMINATED SITES IMPLEMENTATION COMMITTEE

ALLOCATION PANEL - A PRELIMINARY DISCUSSION PAPER

I. INTRODUCTION

As part of the review of the *Waste Management Act*, the Contaminated Sites Implementation Committee has listed allocation panels as a matter for review. This is a preliminary discussion paper discussing some of the perceived problems with allocation panels (as presently established), some options for change, and a discussion of whether these changes can be made by regulation or would require an amendment to the Act.

II. ALLOCATION PANELS - WHAT ARE THEY?

Allocation panels are established under section 27.2 of the *Waste Management Act*. The Minister may appoint up to 12 persons with specialized knowledge in contamination, remediation or methods of dispute resolution to act as allocation advisors[1].

A manager may, on request by any person, appoint an allocation panel of 3 allocation advisors to provide an opinion as to:

1. whether the person is a responsible person;
2. whether a responsible person is a minor contributor;
3. the responsible person's contribution to contamination and the share of the remediation costs attributable to this contamination if the costs of remediation are known or reasonably ascertainable[2].

When providing an opinion, the allocation panel must have regard to certain information and factors as set out in s. 27.2(3).

A manager may require, as a condition of entering into a voluntary remediation agreement, that the responsible person seek and provide an allocation panel opinion[3].

A manager may consider, but is not bound by, any allocation panel opinion[4]. The work on the allocation panel is paid for by the person who requests the opinion[5].

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[1] Section 27.2(1).

[2] Section 27.2(2).

[3] Section 27.2(4).

[4] Section 27.2(5)

[5] Section 27.2(6).

III. PROBLEMS IDENITIFIED WITH ALLOCATION PANELS

- The allocation panel process is **not mandatory** for all parties associated with the contaminated site, thereby leading to incomplete information before the panel and an incomplete determination of issues by the panel
- The opinion of the allocation panel is **not binding** on the manager
- The allocation panel decision is arguably **not binding** on those parties not before the allocation panel (though this raises questions of *res judicata* and issue estoppel)
- The appointment of the panel is **discretionary**
- Allocation panels create **duplication of process** (submissions are made to the allocation panel, but because the opinion is not binding on the manager, further submissions would be made to the manager in terms of the remediation order)
- It is a **costly** process for parties as they must pay the cost of the panel members together with their own costs
- Persons who are not parties before the panel, but nevertheless are impacted by the decision, do not pay the costs of the panel
- To do the job properly, the panel requires substantial **resources**

IV OPTIONS TO CONSIDER

(a) Role of the Allocation Panel

The role of the panel will determine, to a large extent, the process and powers of the panel. Options in relation to the role of the panel to be considered include:

1. Decide who is a **responsible person** for the purposes of the assisting the manager with the decision to name parties on a remediation order.
   - Manager would still determine who should be named on the remediation order (ie, retains discretion)
   - Would reduce work load on manger by deciding the threshold question of who is a responsible person (& therefore who can be in the pool of potentially responsible parties)
2. Decide who is a **minor contributor**
   - reduces work load on the manager
3. Decide **allocation of responsibility**
   - For a remediation order
   - For a cost recovery action

- The allocation panel could become an expert tribunal/court to determine all issues of responsibility and allocation of liability (i.e. there would not be a BC Supreme Court process of allocation of liability, but there would be an appeal to the BC Supreme Court on limited grounds from the decision of the allocation panel)

(b) Allocation Panel Process

The panel process will, to a large extent, be determined by the role of the panel. Options to be considered include:

- Mandatory participation by parties
- Allocation panel decision could be binding in relation to:
  1. Whether a person is a responsible person; and
  2. Minor contributor status.
- The decision as to who are responsible persons would be used by the manager as the basis for deciding who should be named on a remediation order. However, there should be some discretion or factors to be considered by the manager in terms of who should be named on the remediation order. This decision should not be made by the panel
- Costs to be borne by all parties who are affected by the panel decision (in order to stop the "free ride" of some parties)

(c) Powers of the Allocation Panel

The powers of the panel will, to a large extent, be determined by the role of the panel. A draft allocation panel process procedure dated February 13, 1998 was circulated and an RFP for this was issued later in 1998.

Options for additional process and powers to be given to the allocation panel, include:

- suggested process for the allocation panel to follow in identifying potentially responsible persons, including giving notice to potentially responsible persons (PRPs), contacting PRPs, coordinating written submissions and hearing of evidence;
- the right of PRPs to participate in allocation panel deliberations, including the right to cross-examine;
- whether allocation panel deliberations should be open to the public;
- procedural and pre-hearing steps such as opening and closing statements, order of presentations, rights of cross-examination, agreed statements of fact and books of documents.

IV. CAN CHANGES TO THE ALLOCATION PANEL PROVISIONS BE MADE IN THE REGULATIONS, OR ARE THEY REQUIRED TO BE MADE IN THE ACT?

The Contaminated Sites Regulation (Regulation) contains provisions relating to allocation panels in part 11 (s. 54). Essentially, these provisions relate to allocation panel procedures.

The types of changes anticipated in the options are those that affect the role of the allocation panel, the ability to make the allocation process mandatory, and the ability to make binding decisions. As these issues are dealt with explicitly in the Act, changes must be made to the Act rather than the Regulation. Although changes could be made to the Regulation, these changes would be in conflict with the Act, and the principle of statutory interpretation is that if a regulation is in conflict with the enabling Act, then the Act prevails. In other words, such a regulation would not be effective.

July 31, 2000

Contaminated Sites Implementation Committee

MELP ISSUES (Issue #12)

Section 66 of the Contaminated Sites Regulation (CSR) under the *Waste Management Act* (WMA) requires that the management of the regulation be evaluated within 3 years of its coming into force. As a contribution to this evaluation, regional and headquarters staff of the Ministry of Environment, Lands and Parks have prepared a number of proposals for amendments to the CSR. The following list excludes issues related to timelines, fees, independent remediation, soil relocation agreements, mining, biometrics, brownfield sites, certificates of compliance, financial security, and allocation panels as these issues are being addressed by separate subcommittees:

Issue No.	Statement of Issue	Background of Problem	Proposed Solution	Regulatory or Policy Changes to Effect Solution
1.	**Schedule 1 (Site Profile) -** miscellaneous amendments	**Part II** – baseline site information required by the regulation is incomplete: should include a site location map	Add: "Please attach a site location map" immediately following "**II. SITE IDENTIFICATION**"	Regulatory
2.		**Part II** – clarification required to ensure that all sections of Schedule 1 must be satisfactorily completed to be acceptable to the manager.	Delete ***"(All the Following Questions Must be Answered.)"*** from current position at end of Part II. Add "***(All information must be provided and all questions answered)***" immediately following the "SITE PROFILE" header in schedule.	Regulatory
3.		**Part IV** – sites which are impacted by migrating contaminants may not trigger site profile submission.	Add a subsection – D: "Contamination resulting from migration from other properties"	Regulatory
4.		**Part VI** – sites with waste deposition at grade are presently not identified	Delete "...pits, ponds, lagoons or natural depressions of..."	Regulatory
5.	**Schedule 2 (Commercial and Industrial Activities)** – amend item	Include capture of road asphalt activities	Amend E3 by deleting "roofing" from "asphalt tar roofing materials..."	Regulatory

Issue No.	Statement of Issue	Background of Problem	Proposed Solution	Regulatory or Policy Changes to Effect Solution
6.	**Schedule 2 (Commercial and Industrial Activities)** – addition of items	Current omissions (potential problem sites currently not identified)	Add E9 – dry-cleaning facilities, operations and dry-cleaning chemical storage; Add E10 – sites affected by contamination migrating from other properties; Add I9 – sawmills.	Regulatory
7.	**Section 2(1) Site Profiles – Scope**	Extend exemptions for commercial and industrial activities not listed in schedule 2	Add "***subsection 1,2,3,4,7 and 8***" after "…under section 26.1…"	Regulatory
8.	**Section 49 (Requests for Certificates)**	Section is unclear with respect to provision of PSI and DSI reports for review as part of a certificate application. Section could be enhanced to denote the existing supporting information requirements (subsections 2(a) to 2(c)) as components of a remediation completion report.	Add "49(2)(a) "preliminary and detailed site investigation reports" And "49(2)(b) a remediation completion report consisting of" existing (2)(a) through (2)(c) subsections.	Regulatory

PROPOSED AMENDMENT TO THE CONTAMINATED SITES REGULATION TO ACCOMMODATE SOIL AND WATER VAPOUR EXTRACTION FACILITIES

DRAFT 6.13, May 23, 2000

1 Section 1 of B.C. Reg. 375/96, the Contaminated Sites Regulation, is amended by adding the following definitions:

"major modification" means any physical change in an existing soil or water vapour extraction facility or change in the method of operation of such a facility which results or may result in an increase of the mass of discharge of substances listed in schedule 9 or 10, to the environment by greater than 25%;

"soil vapour extraction" means a process used to remove volatile organic compounds from soil which is located above or under the ground by bringing the soil into direct contact with air;

"standard conditions" means a temperature of 20° C and a pressure of 101.325 kilopascals, on a dry basis.

"water vapour extraction" means a process used to remove volatile organic compounds from water which is located above or below the ground by bringing the water into direct contact with air but does not include such a process at industrial or municipal wastewater treatment ponds or lagoons;

2 Section 57 is amended by adding the following subsections:

(3) Parts 2, 3 and 4 of the Special Waste Regulation do not apply to a soil or water vapour extraction facility used for the removal of volatile organic compounds provided that the facility complies with the provisions of subsection (4) unless a manager orders that any of the requirements under those Parts apply.

(4) Subsections 3 (2), 3 (3) and 8 (1) (a) of the Act do not apply to an owner or operator of a soil or water vapour extraction facility used for the removal of volatile organic compounds from soil or water provided that the owner or the operator does all of the following:

(a) submits a statement, containing the following information, to a manager 30 days before the commencement of the operation of the facility:

(i) the name, mailing address and telephone number of the owner and operator of the facility;

(ii) a site plan which shows all emission and effluent sources and a description of the facility including the capacity of the air stripper or soil vapour extractor expressed in standard cubic metres per second of air;

(iii) a description of all discharge sampling facilities and sampling methodology;

(iv) estimated annual operational periods and operating hours;

(v) maximum daily emission rates for total volatile organic compounds, benzene, and total benzene, toluene, ethylbenzene, and xylenes based on the design of the facility or derived from stack test data where stack testing has been conducted; operating data; the manufacturer's data; or emission factor information; and

(vi) a description of the methods used to control substance discharges;

(b) submits a revised statement to a manager within 60 days of any change to the information provided in accordance with subsection (4), paragraph (a)

(c) ensures that any soil or water vapour extraction facility stack emissions and effluent do not exceed the limits set out in Schedule 9 and Schedule 10;

(d) subject to paragraph (f), monitors the stack emissions for flow rate, in cubic meters per hour, and the substances listed in Schedule 9 at a frequency of at least 3 times, on alternate days during the first week after the start of operation, subsequently, at a frequency of 3 times during the next 3 weeks, and thereafter at a frequency of once every 3 months;

(e) subject to paragraph (f), monitors the effluent for flow rate, in cubic meters per hour, and the substances listed in Schedule 10 at a frequency of at least once within 48 hours after the start of operation, and subsequently, at a frequency of once every 3 months and thereafter at an annual frequency;

(f) monitors the stack emissions and effluent flow rate at different frequencies specified by a manager;

(g) upon a major modification, monitors the effluent and stack emissions at the frequency required at the start of operation under paragraphs (d) and (e);

(h) maintains records of all monitoring results at the owner or operator's normal place of business for at least 2 years after obtaining these results;

(i) produces the records of the monitoring results for inspection during normal business hours if requested to do so by an officer;

(j) provides a written report, if requested to do so by an officer, in a form and by a date the officer specifies, of the information contained in the records of the monitoring results;

(k) in the event of a condition beyond the control of the owner or operator which prevents continuing operation of the facility in compliance with this regulation, notifies a manager within 24 hours and takes immediate remedial action or other action that may be specified by the manager;

(l) notifies the local municipal government, prior to the commencement of operation of the facility, of the location, purpose, type and anticipated duration of the operation and quotes this regulation for reference, and

(m) in accord with the requirements specified by a manager, posts a legible notice at the site of the facility, before the commencement of operation of the facility.

(5) The owner or operator of a soil or water vapour extraction facility must provide information required by a manager, in a manner and within a time specified by the manager, including environmental reports, ambient air monitoring data, ambient air modeling predictions, and environmental impact assessments, that in the opinion of the manager is required to determine if the stack emissions and effluent flow may cause or are causing adverse effects.

(6) If, in the opinion of a manager, conditions exist which are beyond the control of the operator and prevent the continuing operation of a soil or water vapour extraction facility in compliance with this regulation, the manager may vary the requirements of this section for a period of no more than 60 days.

3 Table 1 of Schedule 3 is amended by adding the following activity or action 6:

Column I Activity or Action	Column II Fee
6. Operation of a Soil or Water Vapour Extraction Facility	
(a) Person operates a soil or water vapour extraction facility.	$500 for each calendar year during which the facility is, at any time, in operation

4 The Contaminated Sites Regulation BC Reg. 375/96, is amended by adding the following schedules 9 and 10:

SCHEDULE 9
STANDARDS FOR EMISSIONS FROM SOIL AND WATER VAPOUR EXTRACTION[1]

Column I	Column II
Substance	Maximum Emission Rate or Concentration (One Hour Average at Standard Conditions)
total volatile organic compounds (as CH_4)	7.0 kg/day
total benzene, ethylbenzene, toluene, and xylenes	5.0 kg/day
benzene	0.5 kg/day
benzene	30 mg/m^3
ethylbenzene	430 mg/m^3
toluene	185 mg/m^3
xylenes	430 mg/m^3

Notes
1. Sampling and analysis of substances is to be carried out following methods specified in protocols approved under section 53 or alternate methods acceptable to the director.

SCHEDULE 10
STANDARDS FOR EFFLUENT FROM WATER VAPOUR EXTRACTION TREATMENT OF WATER CONTAINING PETROLEUM HYDROCARBONS[1]

Column I	Column II
Substance	Maximum Allowable Concentration in Effluent (ug/L)
total suspended solids	20,000
LEPHs[2]	200
naphthalene	20
benzene	15
ethylbenzene	15
toluene	15
xylenes	50
VPHs[3]	200

Notes

1. Sampling and analysis of substances is to be carried out following methods specified in protocols approved under section 53 or alternate methods acceptable to the director.
2. LEPHs include:

   light extractable petroleum hydrocarbons with the exception of benz[a]anthracene, benzo[a]pyrene, benzo[b]fluororanthene, dibenz[a,h]anthracene, indeno[1,2,3-cd]pyrene, napthalene, and pyrene.
3. VPHs include:

   volatile petroleum hydrocarbons with the exception of benzene, toluene, ethylbenzene, and xylenes

July 31, 2000

Contaminated Sites Implementation Committee

AMENDMENTS TO LEGISLATION
RE "FREEZE AND THAW" PROVISIONS (Issue #14)

Statement of the Issue:

Section 946.2(1) of the *Municipal Act* lists the types of municipal approvals which require site profiles to be submitted under the Act (ie. zoning, development permit, development variance permit, removal of soil, demolition permit and activities prescribed by regulation). Section 946.2(2) prohibits a municipality from approving applications listed in 946.2(1) in the circumstances listed in that section. Section 946.2 is unclear, incomplete and capable of various interpretations.

The section currently reads:

(1) This section applies to an application for one or more of the following:
  (a) zoning;
  (b) development permits or development variance permits;
  (c) removal of soil;
  (d) demolition permits respecting structures that have been used for commercial or industrial purposes;
  (e) activities prescribed by regulation under the *Waste Management Act*.

(2) Despite section 929, a municipality must not approve an application referred to in subsection (1) if the municipality
  (a) has not received a site profile required under section 26.1 of the *Waste Management Act*,
  (b) has received a site profile but has not sent it to the manager under section 26.1(5)(b) of the *Waste Management Act*,
  (c) has sent a site profile to the manager under section 26.1(5)(b) of the *Waste Management Act* but has not received notice that a site investigation under section 26.2 of that Act will not be required, or
  (d) has not received a valid and subsisting approval in principle, conditional certificate of compliance or certificate of compliance under section 27.6 of the *Waste Management Act* from the person making an application referred to in subsection (1)(a) to (1)(e).

The problems with this section include:

- it could be interpreted to mean that an approval in principle or certificate is required even if a site were never contaminated; and

- some sites might not be released for approval even after they have been investigated and found not to be contaminated; and
- there is no provision for independent remediation.

Similar provisions are in the *Islands Trust Act* (s. 34.1), *Land Title Act* (s. 85.1), *Petroleum and Natural Gas Act* (s. 96.1) and *Vancouver Charter* (s. 571B). These provisions will require similar changes as are made to *Municipal Act*.

Proposal:

It is proposed that s. 946.2 of the *Municipal Act* be amended to read as follows:

(1) This section applies to an application for one or more of the following:
  (a) zoning;
  (b) development permits or development variance permits;
  (c) removal of soil;
  (d) demolition permits respecting structures that have been used for commercial or industrial purposes;
  (e) activities prescribed by regulation under the Waste Management Act.

(2) Despite section 929, a municipality must not approve an application referred to in subsection (1) with respect to a site where a site profile is required under section 26.11 of the Waste Management Act unless at least one of the following is satisfied:

(a) the municipality has received a site profile required under section 26.1 of the Waste Management Act with respect to the site and the municipality is not required to forward a copy of the site profile to the manager under section 26.1(5)(b) of the Waste Management Act;

(b) the municipality has received a site profile under section 26.1 of the Waste Management Act with respect to the site, has forwarded a copy of the site profile to the manager under section 26.1(5)(b) of that Act and has received notice from the manager that a site investigation under section 26.2 of that Act will not be required by the manager;

(c) the municipality has received a final determination under section 26.4(1) of the Waste Management Act that the site is not a contaminated site;

(d) the municipality has received written notice from the manager that the municipality is not prohibited from approving an application pursuant to this section;

(e) the municipality has received written notice from the manager that the manager has received and accepted a notice of independent remediation in respect of the site; or

(f) the municipality has received a valid and subsisting approval in principle, certificate of compliance or conditional certificate of compliance under section 27.6 of the Waste Management Act with respect to the site.

[There is nothing in the WMA/CSR which requires that work set out in the AIP be carried out. Therefore, an AIP could be obtained, a rezoning application etc. approved and yet no remediation carried out. Some municipalities deal with this gap in the legislation by refusing to issue an occupancy permit until the work is completed. The UBCM Subcommittee will be requested to consider whether steps should be taken to deal with this issue.]

May 24, 2000

2nd Stage Amendment - Updating Standards Priority List

Priority 1

1. phenols	-	update schedule 6 and create new schedule 5 matrix
2. DDT	-	create new schedule 5 matrix
3. ethylbenzene	-	update schedule 6 and schedule 5
4. toluene		update schedule 6 and schedule 5
5. mercury inorganic	-	create new schedule 5 matrix
6. salinity (NaCl)	-	update schedule 6 and create new schedule 4 (generic) or schedule 5 (matrix)
7. all substances	-	update to maximum extent possible schedule 6 to include changes related to BC Environment Water Quality Guidelines 1998.

Priority 2

8. arsenic	-	update schedule 6 (speciate and add marine) and revise schedule 5
9. benzene	-	update schedule 6 and schedule 5
10. cadmium	-	update schedule 6 (fresh water and marine) and schedule 5
11. chromium	-	update schedule 6 (speciate) and update schedule 5
12. tin	-	add new organotins to schedule 6
13. glycols		add to schedule 6 and create new schedule 5 matrix for ethylene glycol
14. naphthalene	-	possibly create new matrix

Priority 3

petroleum hydrocarbons	-	The Canada wide standards for these substances will be presented to the Council of Ministers for acceptance in principle at the end of June, with final ratification planned for December 2000 or January 2001. Consultations with the Ministry of Health. and other stakeholders on which components to adopt into the Contaminated Sites Regulation for VPH/LEPH and HEPH will be required. It is unlikely that there will be sufficient time for these consultations to be completed in time for the 2nd stage amendment.